

## FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 2 2004

OFFICE OF  
MANAGING DIRECTOR

James L. Winston, Esq.  
Rubin, Winston, Diercks, Harris & Cooke, L.L.P.  
Sixth Floor  
1155 Connecticut Ave., N.W.  
Washington, D.C. 20036

Re: KXGR(TV), Channel 46, Green Valley, AZ  
Request for Deferral of FY 2003 Regulatory Fee  
Fee Control No. 00000RROG-04-021

Dear Mr. Winston:

This letter responds to your request dated September 22, 2003, submitted on behalf of Sungilt Corporation (Sungilt), licensee of television station KXGR, Channel 46, Green Valley, Arizona, for a deferral until March 24, 2004 of the fiscal year (FY) 2003 regulatory fees.

You state that KXGR "has had a history of technical difficulties that have restricted KXGR's ability to achieve financial success." You state that the station recently "went off the air due to a forest fire that cut off power to its transmitter site [and that . . . ]he station is expected to return to the air this week." You state that Sungilt anticipates that an assignment of license application that it has pending before the Commission will be granted in the near future and that the assignment will be consummated within the requested deferral period. You state that upon consummation of the assignment, Sungilt will have the financial ability to make immediate payment of the regulatory fees.

The Commission may waive, reduce, or defer regulatory fees only upon a showing of good cause and a finding that the public interest will be served thereby. See 47 U.S.C. §159(d); 47 C.F.R. §1.1166; *see also Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, Report and Order*, 9 FCC Rcd 5333, 5344 (1994), *on recon.*, *Memorandum Opinion and Order*, 10 FCC Rcd 12,759, para. 12 (1995) (regulatory fees may be waived, deferred, or reduced on a case-by-case basis in extraordinary and compelling circumstances upon a clear showing that a waiver would override the public interest in reimbursing the Commission for its regulatory costs). The Commission will waive, reduce or defer its regulatory fees in those instances where a petitioner presents a compelling case of financial hardship. See *Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *on recon.*, 10 FCC Rcd 12759 (1995). Regulators can establish financial hardship by submitting:

information such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information. 10 FCC Rcd at 12761-12762.

In the absence of such documentation, or other relevant showing, you have failed to establish a compelling case for relief. Therefore, your request for a deferral of the FY 2003 regulatory fees for KXGR is denied. Payment of the FY 2003 regulatory fees is now due. The regulatory fees should be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. However, in view of your allegations of financial hardship, in lieu of payment, you may refile KXGR's request, together with appropriate supporting documentation, within 30 days from the date of this letter. A late payment penalty of 25 percent will be assessed and due if the Commission does not receive either the full payment or a refiled request with supporting documentation on or before 30 days from the date of this letter.

If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", with a stylized flourish at the end.

 Mark A. Reger  
Chief Financial Officer

Enclosure

000002206-04-021

**RUBIN, WINSTON, DIERCKS, HARRIS & COOKE, L.L.P.**

A REGISTERED LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

SIXTH FLOOR

1155 CONNECTICUT AVENUE, NW

WASHINGTON, DC 20036

(202) 861-0870

FAX: (202) 429-0657

September 22, 2003

VIA COURIER

Andrew S. Fishel  
Managing Director  
Office of Managing Director  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

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SEP 22 2003

Federal Communication Commission  
Bureau / Office

SEP 22 1 13 PM '03  
ASST. DIR. OF REG. AFFS.  
FEDERAL COMMUNICATIONS COMMISSION

Re: KXGR, Television Station, Channel 46, Green Valley, Arizona —  
Request for Deferral of Regulatory Fee Payment

Dear Mr. Fishel:

Sungilt Corporation, licensee of television station KXGR, Channel 46, Green Valley, Arizona, pursuant to Section 1.1166(b) of the Commission's Rules, 47 CFR, Section 1.1166(b), hereby requests a deferral of the date for payment of its regulatory fee due September 24, 2003. In support of its request Sungilt submits the following:

Sungilt is the licensee of recently licensed station, KXGR. KXGR has had a history of technical difficulties that have restricted KXGR's ability to achieve financial success. Recently, the station went off the air due to a forest fire that cutoff power to its transmitter site. The station is expected to return to the air this week.

Sungilt has an assignment of license application pending before the Commission that Sungilt anticipates will be granted in the near future. Sungilt anticipates that the assignment of license will be consummated within the requested deferral period, and that, upon consummation, Sungilt will have the financial ability to make immediate payment of the required regulatory fees. The regulatory fee due is \$8,300.

Sungilt requests a deferral of the date for the payment of its regulatory fees from September 24, 2003, to March 24, 2004. Sungilt submits that it has demonstrated good cause for the requested deferral and that the public interest will be served by such deferral.

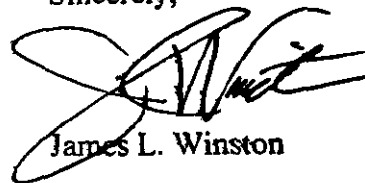
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Andrew S. Fishel  
September 22, 2003  
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Please contact undersigned counsel for Sungilt should you require any additional information regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Winston', written over a large, stylized circular flourish.

James L. Winston

cc: Marlene Dortch, Secretary